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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

National institutions for the promotion and protection of human rights

Report by the Secretary-General submitted in accordance with Commission on Human Rights resolution 1995/50

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Introduction

1. This document has been prepared in pursuance of Commission on Human Rights resolution 1995/50, in which the Commission reaffirmed the importance of the development of effective, independent and pluralistic national institutions for the promotion and protection of human rights in keeping with the Principles relating to the status of national institutions (also known as the "Paris Principles").

2. In paragraph 7 of that resolution the Commission requested the Secretary-General to give a high priority to requests from Member States for assistance in the establishment and strengthening of national institutions for the promotion and protection of human rights as part of the programme of advisory services and technical assistance in the field of human rights.

3. In paragraph 9 the Commission requested the Secretary-General to take measures to ensure that national institutions were informed effectively, including through diplomatic channels, about the activities of the Centre for Human Rights involving national institutions.

4. In paragraphs 12 and 13 the Commission noted the importance of finding an appropriate form of participation by national institutions in relevant United Nations meetings dealing with human rights and requested the Secretary-General to invite Member States which had not yet done so to inform him of their views concerning possible forms of participation by national institutions in such meetings and invited him to include this information in his report to the Commission at its fifty-second session.

5. In response to this request a note verbale was sent to Member States on 24 August 1995 requesting them to give their opinions on the possible forms of such participation by national institutions.

6. As of 20 December 1995 replies containing information provided in response to the request made by the Commission had been received from the Governments of the following countries: Angola, Argentina, Bahrain, Belize, Equatorial Guinea, Jordan, Mauritius, Namibia, Nigeria, Philippines, Tunisia and Uruguay.

7. The Secretary-General took into account the information received only to the extent that it directly met the request contained in the note verbale, in accordance with paragraph 13 of resolution 1995/50. This information is summarized in section VI below. This report also contains information on the activities undertaken by the Centre for Human Rights at the international level with a view to disseminating more widely the Principles relating to the status of national institutions (the Paris Principles) and maintaining the impetus in the establishment of national institutions, by emphasizing technical assistance programmes implemented by advisory services. Replies reaching the Centre for Human Rights after the deadline set will be included in an addendum to this report.

I. PROGRAMME OF ACTION ESTABLISHED BY THE CENTRE FOR HUMAN RIGHTS WITH A VIEW TO ENCOURAGING AND STRENGTHENING THE ESTABLISHMENT OF INSTITUTIONS

8. It should be pointed out first of all that the World Conference on Human Rights stressed the need for advisory services and technical assistance activities in the Centre for Human Rights to be strengthened. In accordance with this recommendation, the Centre has launched an extensive programme of technical assistance and advisory services for national institutions.

9. The Centre makes its services available to Governments that are planning to establish institutions for the defence of human rights or that are in the process of doing so. In such cases, the Centre provides financial assistance or the services of an expert to advise the authorities on appropriate models, as well as supplying technical information and examples of comparable legislation so as to facilitate the task of drafting laws.

10. When a national institution has already been established, the Centre provides a similar kind of assistance in order to strengthen it and increase its capacity to play a central role in the protection and promotion of human rights.

11. In addition, there are other activities that seek to promote the concept of national institutions for the defence of human rights and to encourage their establishment on a large scale. Thus, the Centre has produced information material designed to help States establish and administer national institutions and has organized a number of seminars and workshops so as to provide officials from different regions with information on the structure and operation of bodies of that kind.

12. The Centre for Human Rights also stands ready to provide all national, regional or international organizations with assistance with regard to information, documentary material and research on human rights.

A. Objectives pursued by the Centre for Human Rights

13. With a view to fulfilling the commitments made at the World Conference on Human Rights and following the guidelines laid down by the General Assembly and the Commission on Human Rights, the Centre for Human Rights has set itself the four major objectives described below.

1. Promoting the concept of national institutions throughout the world

14. It is clear that there is a regional imbalance in the distribution of national institutions for the protection of human rights. While numerous institutions exist in Western Europe, North America and Oceania, particularly in the form of ombudsmen, mediators, collective bodies or commissions on human rights, measures need to be taken to encourage the establishment of national institutions in Asia, South America, the Caribbean and Eastern Europe and the Centre has therefore adopted a strategy with this end in view. A different strategy is required, however, in Africa, where the growth of national institutions has been encouraging.

15. Mention should also be made of the existence of the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights, whose resources may be used for the establishment and strengthening of national mechanisms for the protection and promotion of human rights, including national institutions.

2. Contributing, on an individual basis, to the establishment of effective, independent and pluralistic national institutions

16. In this field the Centre facilitates the task of devising and adopting an appropriate legislative and administrative structure for national institutions in accordance with the Paris Principles.

17. It is in pursuit of this objective that the Centre has prepared a handbook on the establishment and strengthening of national institutions, whose main aim is to provide guidelines for Member States which are planning to establish such an institution. This handbook analyses the effective functioning of institutions, deals with the promotion of awareness of, and education on, human rights, as well as with the advisory and support services available to Governments, particularly in the legislative field, and explains how a national institution may investigate human rights violations.

18. The information contained therein is supplemented, if need be, by the services of experts who assist Governments in the process of drafting legislation and in the initial stage of recruitment for key positions.

3. Increasing the effectiveness of existing institutions

19. This takes the form of training the staff of national institutions, providing assistance in the drafting of the reports that the Governments submit to United Nations bodies concerned with human rights and organizing training courses on such subjects as the investigation of human rights violations, the settlement of disputes, the establishment of cooperative relations and the management of resources.

4. Finalizing arrangements for achieving cooperation and coordination between national institutions at the regional and subregional levels

20. This objective seeks to encourage the establishment of cooperative relations at various levels between States and between the national institutions themselves. Governments wishing to establish an institution for the defence of human rights may benefit from the practical experience of other Governments, while those that already have institutions may help to strengthen them by carrying out exchanges of information and data.

21. The Centre for Human Rights also encourages existing institutions to cooperate in practical ways by carrying out joint activities and collaborating on studies or particular research projects. During the preliminary assessment of a country's needs, assistance is mainly directed towards the regional and subregional levels where there is a good chance that contacts already exist for exchanges of information that will help to encourage joint initiatives.

22. During the stage of establishing a national institution, experts are chosen, whenever possible, from among the staff of existing institutions in the same region or subregion. The Centre is also able to arrange for experts from existing institutions to help those that have less experience.

23. As far as exchanges of information are concerned, it should be pointed out that the Centre for Human Rights takes part in this process by establishing a database on each national institution and, if need be, by providing any institution with the information it requires.

B. Fulfilment of objectives

24. In accordance with the policy of the Advisory Services, Technical Assistance and Information Branch, the implementation of all initiatives undertaken as part of the programme of action established by the Centre for Human Rights depends on a preliminary assessment of the needs of the institution or group of institutions concerned. Such an assessment is carried out by the Centre in close conjunction with the requesting Government and other bodies concerned so as to get an accurate idea of the kind of assistance needed and the way in which it may be best provided.

25. In addition, there are various ways in which existing national institutions may participate in the implementation of country programmes of advisory services and technical assistance. A national institution may cooperate in the organization of training courses and seminars, in the translation of instruments concerning human rights and in the coordination of the activities of national non-governmental organizations. This method presents obvious advantages for both parties, in that a national institution may greatly facilitate things for the Centre and is often able to provide decisive administrative, technical and organizational support, while the institution itself may be internally strengthened by cooperating with the Centre.

26. Finally, it should be pointed out that, in accordance with the Vienna Declaration and Programme of Action, meetings of national institutions are held on a regular basis. Chaired by the Assistant Secretary-General for Human Rights, or his representative, they provide an opportunity for hearing about the complaints of national institutions and the work that they have carried out in their respective countries and for maintaining the process of establishing national institutions. They also provide an opportunity for examining the implementation of the programme of action.

II. ACTIVITIES UNDERTAKEN IN 1994-1995 BY THE CENTRE TO ESTABLISH NEW NATIONAL INSTITUTIONS AND STRENGTHEN EXISTING INSTITUTIONS

27. In Palestine the Centre for Human Rights has provided support for the establishment of a national institution for the protection and promotion of human rights: the Palestinian Independent Commission for Citizens' Rights. This support forms part of a biennial project established by the Centre to strengthen the rule of law in Palestine. The Centre intends to assist the efforts at legislative reform that the Palestinian Independent Commission for Citizens' Rights is intending to undertake, and also plans to launch field operations in 1996 and 1997. This participation by the Centre in the

protection and promotion of human rights in Palestine forms part of a wide-ranging programme of activities by the United Nations to support the Palestinian national authorities and civil society.

28. The contribution of the Centre for Human Rights to the development of a national institution for the protection and promotion of human rights in Papua New Guinea assumed considerable proportions in 1995. In March 1995 Papua New Guinea requested the Centre to assess the country's needs for technical assistance in the field of human rights. In response to this request, the Centre for Human Rights organized a mission from 28 May to 6 June 1995, which helped to identify the following priorities: assistance in strengthening existing infrastructures; help towards the establishment of an independent human rights commission; support for measures designed to protect economic, social and cultural rights and the rights of particularly vulnerable groups, and assistance towards the consolidation of civil society. It was the wish of the Government of Papua New Guinea that the Centre would ensure the follow-up of the recommendations of the mission report. In addition, a mission to formulate a technical assistance project is now being planned.

29. In January 1995, the Government of Latvia submitted its national programme for the promotion and protection of human rights, which was based on the report of a high-level mission carried out in July 1994, at the request of the Government, by experts appointed by the Centre for Human Rights. This programme involves the establishment of an independent institution for the promotion and protection of human rights in Latvia: the Latvian Human Rights Bureau. Subsequently, the Centre devised a two-year project to develop the capacities of the Bureau, which is accessible to the general public, receives complaints from citizens and carries out such functions as the provision of conciliation services and information. Implementation of this project began in January 1996.

30. In Panama, the Centre for Human Rights is currently helping to draw up a draft law to set up an ombudsman. An advisory services mission to examine this draft law took place from 19 to 23 November 1995.

31. Following the dispatch of a needs assessment mission to Khoisan (Republic of Moldova) from 18 to 25 February 1995, the Centre drew up a series of recommendations involving, inter alia, the strengthening of the rule of law, respect for human rights and the possible establishment of a national institution for the protection and promotion of human rights. Following a second expert mission in October 1995, a technical cooperation project is now being prepared.

32. In Malawi, the Centre for Human Rights is carrying out an extensive programme providing assistance in the establishment of a human rights commission consisting of a human rights commissioner, an ombudsman and representatives from various human rights organizations in Malawi. Under the terms of the cooperation declaration signed on 24 August 1994, the Centre has seconded a human rights expert to Malawi.

33. As part of the technical assistance programme in Togo, the Centre is planning to launch an information and training campaign in 1996 so as to develop a culture in which the rule of law can become established. A needs

assessment mission that was carried out in Togo from 6 to 10 March 1995 revealed that the major problem affecting the Togolese institutions for the promotion and protection of human rights, in particular the National Commission on Human Rights, is the lack of equipment and staff. Support from the Centre will be mainly directed towards providing assistance with human rights documentation and publications and staff training.

III. THIRD INTERNATIONAL WORKSHOP ON NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

34. The Centre for Human Rights held the third International Workshop on National Institutions in Manila, at the invitation of the Government of the Philippines, from 18 to 21 April 1995. Organized in accordance with Commission on Human Rights resolution 1994/54 and pursuant to the recommendations of the second International Workshop in Tunis (13-17 December 1993), this Workshop provided an opportunity to take stock of the progress achieved in implementing the Paris Principles and to discuss a programme of action designed to help Member States to establish national institutions.

35. Three major themes were examined in the course of this meeting:

(a) Assessment of implementation of the Principles relating to the status of national institutions;

(b) National institutions and the fight against racism and racial discrimination;

(c) Contribution of national institutions to the fourth World Conference on Women.

The report of the third International Workshop on National Institutions for the Promotion and Protection of Human Rights (Manila, 18-21 April 1995) will be available at the present session of the Commission (E/CN.4/1996/8).

IV. MEETING OF THE COORDINATING COMMITTEE OF NATIONAL INSTITUTIONS

36. In its resolution 1994/54, the Commission on Human Rights welcomed the decision of national institutions to set up a coordinating committee to meet under the auspices of the Centre for Human Rights. Consisting of representatives of the national institutions of the following countries: Australia, Cameroon, Canada, France, India, Mexico, New Zealand, Philippines, Sweden and Tunisia, the Committee is, in effect, a large international network of bodies responsible for promoting the establishment and strengthening of national human rights mechanisms.

37. The first meeting of the Coordinating Committee took place in Geneva in February 1994. The second meeting, which was held from 22 to 23 February 1995, enabled the members to submit reports on the activities of their respective institutions for 1994. The main objective was to encourage the institutions to apply the Principles relating to the status of national institutions, the recommendations of the World Conference on Human Rights and the recommendations of the Workshop in Tunis. Particular emphasis

was placed on strengthening the links of national institutions with the United Nations High Commissioner for Human Rights and the Centre for Human Rights.

V. ACTIVITIES OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS REGARDING NATIONAL INSTITUTIONS

38. The High Commissioner has taken steps to ensure that national institutions are properly informed of the relevant activities of the Centre for Human Rights. To help him in this task he has strengthened his Office by appointing a special adviser. He has also personally met a number of the chairmen of national institutions, to whom he has explained how the Centre's activities supplement and give effect to the High Commissioner's mandate. He has also sought to ensure that those countries that have requested technical assistance for the establishment of new institutions may obtain it by emphasizing the need for compliance with the Paris Principles. During his general information missions carried out in the Philippines, New Zealand, Australia, Latvia, Denmark and Sweden, the High Commissioner stressed the importance of exchanging information on the establishment and activities of national institutions.

39. In addition, the Office of the High Commissioner is encouraging a number of States to let national institutions participate in the formulation of action plans at the national level in accordance with the provisions of the Vienna Declaration and Programme of Action.

40. In response to the request made by the Commission on Human Rights, the Office of the High Commissioner has taken the necessary measures to disseminate as widely as possible the Principles relating to the status of national institutions within the framework of the missions and seminars in which the High Commissioner has been invited to take part. Finally, in order to help new national institutions overcome any teething problems, the Office of the High Commissioner has established close contacts with some national institutions that have the necessary experience in this field.

VI. PARTICIPATION OF NATIONAL INSTITUTIONS IN UNITED NATIONS MEETINGS

41. The report by the Secretary-General to the fifty-first session of the Commission on Human Rights (E/CN.4/1995/48) contained the views and observations of a limited number of countries and national institutions on possible forms of participation by national institutions in United Nations meetings dealing with human rights. On account of the small number of replies received, the Commission reiterated its request so as to be able to assess more accurately the ways in which national institutions might participate. Accordingly, the Centre for Human Rights sent a new note verbale to Member States (see paras. 5 and 6 above).

42. Of the 12 replies received, some contained only information of a general nature and have not been taken into account in this report. Argentina for example, merely described the establishment of its national institutions, while Uruguay outlined the situation and activities of its national

institutions. The following sections contain a summary of the replies that have a direct bearing on the nature of the participation of national institutions.

A. Angola

43. Without identifying the various forms of participation by national institutions, the Government of Angola stated that its national institutions had participated actively and at the highest level in United Nations meetings dealing with human rights since 1992 despite the difficulties which the country faced. It suggested that the industrialized countries should agree to pay the travel and living expenses of at least two delegates so that they could participate in United Nations meetings dealing with human rights.

B. Belize

44. The Government of Belize stated that it was in favour of the participation of national institutions in human rights meetings and put forward two suggestions:

(a) Reports drawn up by national institutions dealing with human rights and sent to the United Nations should be communicated, through normal channels, to the minister concerned before being transmitted to the United Nations;

(b) National institutions should form part of Government delegations attending United Nations meetings on human rights.

C. Equatorial Guinea

45. The Government of Equatorial Guinea has expressed the wish to create a democratic system in the country since 3 August 1979, based on the values of promoting and protection human rights. However, owing to the serious economic backwardness resulting from the fact that the former colonial Power exploited its natural resources and attached little importance to the development of the country, it has proved impossible to realize this wish, in particular on account of the absence of national institutions for promoting and protecting human rights. Accordingly, Equatorial Guinea has made the two following observations:

(a) Human rights institutions in Equatorial Guinea will participate in meetings to which they have been invited by the United Nations so as to emphasize their interest in the value of human rights in their historical context. The presence of national institutions will enable them to request the technical assistance mentioned in paragraph 10 of resolution 1995/50 of the Commission on Human Rights;

(b) The forms of participation by national institutions in United Nations meetings dealing with human rights will take account of the nature of each meeting.

D. Jordan

46. Steps need to be taken to strengthen cooperation between public authorities and non-governmental organizations and to improve the coordination of their activities when participating in United Nations meetings dealing with human rights. It would benefit the cause of human rights for these two kinds of body to be represented by a single delegation, since it would help to overcome the divergencies noted at the Vienna Conference between the principle of the universality of human rights supported by the non-governmental organizations and the principle of the specificity of human rights advocated by the public authorities. Increased cooperation between the two kinds of body should lead to a single conception of human rights that will emphasize both their universality and their indivisibility.

47. There is a need to encourage States Members of the United Nations to ratify the human rights international instruments since the participation of national organizations in United Nations meetings depends on that. National organizations can hardly be expected to participate in such meetings when the State to which they belong has not yet ratified many of the international instruments on human rights.

48. The obstacles that prevent some organizations from participating in United Nations meetings need to be eliminated (e.g. opposition on the part of some Governments or bad management which gives rise to problems in the payment of participation expenses or the late dispatch of invitations).

49. Finally, criteria for defining the principles relating to human rights need to be determined. Consideration of the above-mentioned observations and proposals would enable the public authorities and non-governmental organizations concerned with human rights to reach a common view of human rights and would contribute to the success of meetings in this field.

E. Mauritius

50. The Government of Mauritius considers that the United Nations should invite the national institutions of each country to submit a report on the activities they undertake and, in particular, their structure, their relations with governmental bodies, non-governmental organizations and other pressure groups, as well as on the measures taken to ensure the promotion and protection of human rights, the degree to which their involvement in the legislative process enables them to ensure the protection of human rights, and the reasons for their lack of effectiveness.

F. Nigeria

51. Nigeria takes the view that national institutions should be able to attend all human rights meetings as observers and as independent organizations distinct from NGOs, governmental and intergovernmental delegations and representatives of the specialized agencies of the United Nations. They should be accredited to human rights meetings on the same basis as delegations having observer status, as laid down in the rules of procedure of the technical commissions of the Economic and Social Council.

G. Philippines

52. The Philippines considers that national institutions, in their capacity as advisory bodies, should be given appropriate official status at United Nations meetings dealing with human rights. National institutions clearly have an effective and direct role to play in all questions relating to violations of human rights in their respective countries. In addition, the Philippines believes that the opinions and comments contained in the reports of national institutions are relevant for special rapporteurs.

H. Tunisia

53. The Tunisian Government believes that national institutions should be able to participate as observers in meetings of various United Nations bodies, so as to contribute to international efforts to promote human rights. In this connection, the World Conference on Human Rights, held in Vienna, proved to be a positive experience: national institutions took part in the debates, but were assigned a reserved area, thereby distinguishing them from NGOs and official delegations.

VII. CONCLUSIONS AND RECOMMENDATIONS

54. It is clear that progress is now being made towards ensuring effective participation by national institutions in United Nations meetings dealing with human rights. However, the nature of such participation still remains to be defined, since it fluctuates between the observer status granted to national institutions by the Vienna Conference and a system of patronage, whereby some States allow their institutions to operate under their tutelage when participating in the activities of the Commission on Human Rights or of certain treaty monitoring bodies.

55. It should be noted that the effective participation of national institutions in the World Conference on Human Rights and the success that they achieved in having the principles and guidelines reflecting their own particular interests incorporated into the final text of the Conference formed an important step forward.*

56. National institutions are keen to engage in active participation so as to be able to use all the resources of formal and informal diplomacy to advance the cause of human rights and have the standards set at the international level more fully implemented at the national level.

57. In fact, of course, national institutions already maintain close relations with the Centre for Human Rights.

58. In the light of the above observations, the Commission on Human Rights should formulate recommendations (a) to improve the action of national institutions in the implementation of their programmes for the promotion and

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* See paras. 34, 35 and 36 of the Declaration and paras. 20, 67, 68, 74, 82, 83, 84, 85 and 86 of the Programme of Action.

protection of human rights, and (b) to mobilize financial resources for such activities and so as to strengthen existing national institutions and create new ones.

59. The Commission should encourage States and national institutions to observe the provisions contained in the Principles relating to the status of national institutions and invite them to take action to have these Principles introduced into their domestic legislation.

60. It should also encourage each country to devise an information strategy that would help to raise awareness among the general public and among all elements of civil society on the need to promote and protect human rights.

61. As regards the appropriate form of participation by national institutions in United Nations meetings dealing with human rights, it is for the Commission on Human Rights to state its position on this question and, in the final analysis, for the Economic and Social Council to decide, on the recommendation of the Commission.